IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 381 of 2004(U)

AGAINST THE ORDER IN CMA.49/02IA.1838/02 IN
CMA.48/2002 of PRINCIPAL SUB COURT,ATTINGAL
OS.340/2002 of MUNSIFF COURT,ATTINGAL
(IA.1861/02 OS.348/02)

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PETITIONER:

SREEMATHY, D/O.BHANUMATHY,
THUSHARA, AVANAVANCHERRY DESOM, EDAKKODE VILLAGE,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.M.R.RAJESH

RESPONDENTS:

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1. UDYAKUMAR, S/O.LATE KUTTAPPAN,
THUSHARA, AVANANVANCHERRY DESOM EDAKKODE VILLAGE,
REP. BY HIS POWER OF ATTORNEY HOLDER ANILAL,
S/O.SADASIVAN, BINITHA BHAVAN, PACHALLOOR P.O.
THIRUVANANTHAPURAM DISTRICT.

2. BINITHA, D/O.SADASIVAN, THUSHARA,
AVANANAVANCHERRY DESOM, EDAKKODE VILLAGE,
HAVING PRESENT ADDRESS BINITHA BHAVAN,
PACHALLOOR P.O. THIRUVANANTHAPURAM DISTRICT.

3. DHARMALATHA, D/O.SREEMATHY,SOBHA VIHAR,
NEAR GOVT. I.IT.I. ATTINGAL,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.M.DINESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 381 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE COMMON ORDER DT.31.10.02 ON IA NO.1838 OF 2002 IN OS NO.340 OF 2002 AND IA NO.1861 OF 2002 IN OS NO.348 OF 2002 ON THE FILE OF THE MUNSIFF'S COURT, ATTINGAL.

EXT.P2 : TRUE COPY OF THE COMMON JUDGMENT DT.29.11.03 ON CMA NO.48 AND 49 OF 2002 ON THE FILE OF THE SUBORDINATE JUDGE'S COURT, ATTINGAL.

EXT.P3 : TRUE COPY OF THE RATION CARD NO.1104006766 OF THE PETITIONER.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 381 OF 2004

Dated this the 12th day of June, 2007

JUDGMENT

The order of temporary injunction passed against the petitioner-mother in favour of the 1st respondent-son by the Munsiff's Court was confirmed in appeal by the Subordinate Judge by Ext.P2 judgment. Even though Sri.M.R.Rajesh, counsel for the appellant addressed me fervently assailing Ext.P1 order of the Munsiff and Ext.P2 judgment of the Sub Judge, I am unable sitting in this jurisdiction under Article 227, which is narrow and visitorial in nature to say that Exts.P1 and P2 orders are vitiated by infirmity to such an extent as to warrant correction. But I notice that on 06.01.04, while admitting this Writ Petition, this Court passed an order of injunction restraining the respondents from obstructing the residence of the petitioner in the plaint schedule property. That order is in currency even now. Under these circumstances, I dispose of the writ petition itself directing the trial court to dispose of suits, OS No.340 of 2002 filed by the petitioner and OS No.348 of 2002 filed by the 1st respondent expeditiously. The learned Munsiff will not be influenced by his own order-Ext.P1 and the judgment of the lower appellate court-Ext.P2 while deciding the suits. Exts.P1 and P2 will be treated by the learned Munsiff as provisional and decision will

be taken in the suits on the basis of the evidence which comes on record at trial. The suits will be disposed of at the earliest and at any rate within three months of receiving copy of this judgment. The order of injunction passed by this Court on 06.01.04 will continue till such time as the suits are disposed of.

PIUS C. KURIAKOSE, JUDGE

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